

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

* CRIMINAL NO. 08-074

v.

* SECTION: "C"

AKSHAYA SWAIN

* VIOLATION: 18 U.S.C. § 1470

* * *

FACTUAL BASIS

Should this matter proceed to trial, the Government and the defendant, **AKSHAYA SWAIN** stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty and the government would prove the following beyond a reasonable doubt.

The government would show that at all times mentioned in the Superseding Bill of Information, the defendant, **AKSHAYA SWAIN**, was a 29 year old student at the University of Missouri in Columbia, Missouri. Beginning on or about February 26, 2008, **AKSHAYA SWAIN**, using the screen name "aks281usa", initiated online communications using a facility of interstate or foreign commerce namely Yahoo! (an Internet service provider engaged in the

business of relaying communications between users which travel in interstate commerce) with an individual who he believed to be a 15 year old girl using the screen name “amaya_bordelon 2011.” The evidence would establish that the defendant thought “amaya_bordelon” was a 15 year old girl who lived in Kenner, Louisiana. The defendant identified himself as a 21 year old man from Missouri.

The government would establish that the 15 year old girl who the defendant was communicating with was actually an undercover detective with the Kenner Police Department assigned to the Federal Bureau of Investigation’s (FBI) Innocent Images Task Force, New Orleans. The government would establish through testimony, recorded telephone conversations, web camera video clips, and chat logs that from February 26, 2008, through March 12, 2008, the defendant knowingly attempted to transmit obscene material to a 15 year old. Evidence would be introduced to establish that the defendant initiated obscene and graphic discussions about masturbation, oral sex, and vaginal penetration of the minor. The conduct included the transmission of a web camera video of himself with an erect penis shown through his sweatpants.

In addition to testimonial evidence, the government would introduce physical evidence including the defendant’s computer equipment, web camera, T-mobile telephone, as well as the obscene chat logs which memorialized the defendant’s obscene transmissions to the 15 year old “amaya_bordelon.” Further, a representative from Yahoo! would testify that all Yahoo!

communications and web camera transmissions are routed through a Yahoo! server located in California, thereby traveling and affecting interstate commerce.

AKSHAYA SWAIN
Defendant

DATE

GEORGE CHANEY
Counsel for Defendant

DATE

BRIAN M. KLEBBA
Assistant United States Attorney

DATE